

ENTERED

January 05, 2018

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

LIONEL LOPEZ, *et al*,

Plaintiffs,

VS.

GREG ABBOTT, *et al*,

Defendants.

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CIVIL ACTION NO. 2:16-CV-303

ORDER ON MOTIONS TO EXCLUDE

In this voting rights action, Defendant, the State of Texas, together with its Governor, Greg Abbott, and its Secretary of State, Rolando Pablos (collectively Texas) has filed two motions to exclude. Texas challenges the expert testimony of José Roberto Juárez, Jr. (Juarez) and Dr. Henry Flores (Flores). D.E. 65, 66.

The parties have agreed to try this case to the bench. Without the danger of improperly influencing or confusing the jury, there is little to be gained by pre-trial rulings on the admissibility of expert testimony. The Fifth Circuit's description of its standard of review makes this clear:

We must begin our analysis with the well-settled principle that the admission or exclusion of expert testimony is a matter ordinarily entrusted to the sound judicial discretion of the trial court. This determination will ordinarily not be disturbed absent a showing of manifest error. Further, a trial judge sitting without a jury is entitled to even greater latitude concerning the admission or exclusion of evidence. In a non-jury case, the admission of incompetent evidence will not warrant reversal unless all of the competent evidence is insufficient to support the judgment, or unless it affirmatively appears that the incompetent evidence induced the court to

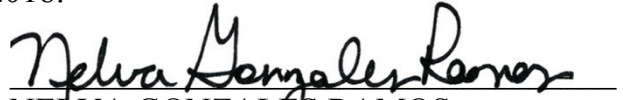
make an essential finding which would otherwise not have been made.

Goodman v. Highlands Ins. Co., 607 F.2d 665, 668 (5th Cir. 1979) (citations omitted).

Without concerns regarding jury confusion, a fully developed record, including the challenged evidence, offers the benefit of illuminating considerations that inform the admissibility decision.

For these reasons, the Court DENIES the motions (D.E. 65, 66) without prejudice.

ORDERED this 5th day of January, 2018.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE